23.11.2026
Court No. 12
Item No.01
Cp/Sandip

MAT 1959 of 2026
With
CAN 1 of 2026

Carbon Resources Private Limited & Anr.
Vs.
Steel Authority of India Limited & Ors.

Mr. Jishnu Chowdhury, Sr. Advocate
Mr. Ankit Kanodia
Mr. Risabh Karnani
Mr. Deep Basak
Mr. Shovan Ojha
Ms. Tulika Roy
Ms. Megha Agarwal
..... for the Appellants.

Mr. Kishore Datta, Sr. Advocate
Mr. Lakshmi Kanta Pal
Ms. Sumita Shaw
..... for the Durgapur Steel Plant.

Ms. Mary Datta
.....for the Union of India.

1. It is submitted that the defect has been cured.

2. This is an appeal against the order dated November 19, 2026, passed in WPA 32253 of 2026. By the order impugned dated November 19, 2026, the learned Single Judge dismissed the writ petition. The appellants/writ petitioners (hereinafter referred to as 'the appellants'), filed the writ petition challenging a decision of the Steel Authority of India Limited (hereinafter referred to as 'SAIL'), rejecting the technical bid of the appellants.

3. The Durgapur Steel Plant, (SAIL) published a tender notice through Government – e-marketplace (GeM) for supply of Petroleum Coke (V2). The appellant participated in the said tender process and submitted its bid. Along with its technical bid, the appellant also submitted a bank guarantee on October 8, 2026. The address mentioned in the bank guarantee was incorrect. The following address was incorporated instead of the correct address:

   "TO
   M/S STEEL AUTHORITY OF INDIA LTD.
   SAIL-DAP
   CHANDRAPUR FERRO ALLOY PLANT
   CHANDA-MUL-ROAD
   CHANDRAPUR-442401 (MAHARASTRA)"

4. The IFSC Code of the beneficiary's bank was also wrongly mentioned as SBIN0000346.

5. The technical bid was opened on October 23, 2026 and the aforesaid defect contained in the bank guarantee was detected. It appears that the appellant obtained the said bank guarantee on October 8, 2026 and uploaded it in the portal of GeM on October 15, 2026. The evaluation of the technical bid was completed on November 10, 2026.

6. On October 28, 2026, the amended bank guarantee was furnished. On November 12, 2026, the technical bid of the appellant was rejected by SAIL with the following comment.

> "For EMD, the party has uploaded BG dt 08.10.2026 of Rs.70.15 lacs submitted in favour of SAIL-CFAP in GeM and original hard copy of the same BG received in DSP. Later an original hard copy of same BG with amendment dt 28.10.2026 in favour of SAIL-DSP received in DSP on 28.10.2026. As original BG dt 08.10.2026 Is not in favour of SAIL-DSP and amended BG issued on 28.10.2026 which is after ToD and also not uploaded on GeM on or before ToD, techno-commercial offer submitted by the party has not been considered for evaluation and their offer/bid has been rejected because of non-submission of requisite EMD on or before ToD."

7. It appears from the record that Yes Bank Limited, by a letter dated November 13, 2026 informed SAIL that the beneficiary of the bank guarantee was SAIL-DSP, and the bank guarantee furnished by the appellants bearing No. 190BG09262810001 was 100% genuine, valid and legally binding from its original issuance date. The bank further informed SAIL-DSP, that in the bank guarantee furnished by the appellants, there was a clerical error in the beneficiary's address. However, the bank clarified that such clerical error would not affect SAIL-DSP's unconditional legal right to invoke a claim the guaranteed amount.

8. In spite of letter dated November 13, 2026 issued by the Yes Bank Limited, SAIL chose not to consider the technical bid of the appellants as a valid one. Challenging such decision of SAIL, the appellants filed the writ petition.

9. The learned single Judge, upon considering the rival submissions of the parties, inter alia, held as follows :-

> "21. Considering as above, this Court finds that in the present case, the beneficiary of the Bank Guarantee was AGM, Durgapur Steel Plant (SAIL), Durgapur 713203, West Bengal (Durgapur Steel Plant, Sail). But admittedly, the Bank Guarantee was in the name of M/S Steel Authority of India Limited, SAIL-DSP, Chandrapur Ferro Alloy Plant, Chanda-Mul-Road, Chandrapur – 442 401 (Maharashtra). The beneficiary of the Bank Guarantee dated 8th October, 2026 submitted by the petitioner on 18th October, 2026 is different than the beneficiary mentioned in the Tender document. The terms and conditions of the Tender document also provides that if the if EMD or Exemption documents etc. submitted by vendor are not found in order, the offer shall not be considered.
> 22. Considering the above, this Court finds that there is no illegality by rejecting the Technical Bid of the petitioner as the petitioner has not submitted the EMD by way of BG in the proper name of the beneficiary."

10. Mr. Jishnu Chowdhury, learned senior Advocate appearing for the appellants submits that in the bank guarantee which was initially submitted by his client, there was a clerical mistake on the part of the Yes Bank Limited. As soon as such clerical mistake was detected, the same was rectified and the amended bank guarantee was submitted. Mr. Chowdhury further submits that his client is ready to match the price of the L1. According to Mr. Chowdhury, no prejudice would be caused to the tendering authority if the reverse auction in re-done. The tendering authority had received the

amended bank guarantee much before the rejection of the technical bid. As such, the amended bank guarantee should have been accepted by SAIL on October 28, 2026. At the relevant point of time the evaluation of the technical bid was going on.

11. Per contra, Mr. Datta, learned senior counsel for SAIL-DSP, submits that the technical bid of the appellants was rejected in conformity with the terms and conditions of the notice inviting tender. The mistake in the bank guarantee was apparent on the face of the record and the appellant could not claim any equity before a writ Court. The writ court did not enjoy any authority to restrain SAIL from invoking the tender conditions.

12. Heard the parties.

13. The scope of judicial review in respect of matters relating to tenders is microscopic. In ***Tata Celular Vs. Union of India,*** reported in ***(1994) 6 SCC 651***, the Hon'ble Apex Court held as follows :-

> "**77.** The duty of the court is to confine itself to the question of legality. Its concern should be:
> 1. Whether a decision-making authority exceeded its powers?
> 2. Committed an error of law,
> 3. committed a breach of the rules of natural justice,
> 4. reached a decision which no reasonable tribunal would have reached or,
> 5. abused its powers.
> Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the

duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(*i*) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(*ii*) Irrationality, namely, Wednesbury unreasonableness.

(*iii*) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in *R.* v. *Secretary of State for the Home Department, ex Brind* [(1991) 1 AC 696] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention".

14. Therefore, a writ Court can interfere with the decision of the tendering authority under limited circumstances:-

(1) If the decision is arbitrary.

(2) If the decision violates the rules of natural justice.

(3) If the tender inviting authority violates any statutory provision.

(4) If the decision adopted by the decision making authority is such that, no reasonable person shall have come to such a decision.

(5) If it is found that the contract is tailor made, in order to favour a particular person or class of person.

(6) If the decision is against public interest.

15. The Bid document dated September 30, 2026 provided as follows :-

> *"(a) The bidder seeking EMD exemption, must submit the valid supporting document for the relevant category as per GeM GTC with the bid. Under MIS category, only manufactures for goods and service Providers for Services are eligible for exemption from EMD. Traders are excluded from the purview of this Policy.*
> *(b) The EMD Amount will be applicable for each schedule/group selected during Bid creation.*
> *(c) EMD & Performance security should be in favour of Beneficiary, wherever it is applicable.*
> *(d) Earnest Money Deposit (EMD) shall also be accepted by the buyer in the form of a surety bond.*
> *Beneficiary :*
>
> *AGM*
> *Durgapur Steel Plant (SAIL), Durgapur-713203, West Bengal*
> *(Durgapur Steel Plant, Sail)"*

16. The date for opening the technical bid was fixed on October 23, 2026. As on that date, the bank guarantee was not in proper form. It did not conform to the terms and conditions of the bid document. The tender document further provided under Clause 4 (a) that, if the EMD or Exemption documents etc., that were submitted by the vendor were not found to be in order, the offer shall not be considered. Clause 5(a) of the bid document is quoted below : -

"5. Earnest Money Deposit (EMD)/Bid Security:-

a. Tenderer participating in multiple Markets/Schedules need to submit EMD/Bid Security for respective Markets/Schedules. EMD/Bid Security favouring "STEEL AUTHORITY OF INDIA LIMITED, DURGAPUR STEEL PLANT" and payable at Durgapur may be submitted in the form of online transfer, Demand Draft, Banker's Cheque, Bank Guarantee (BG) or Fixed Deposit Receipt (FDR) from any Scheduled Commercial Bank except Co-operative and Gramin Bank but shall not be accepted in cash. The bank account details of DURGAPUR STEEL PLANT is BANKER NAME: STATE BANK OF INDIA, ACCOUNT NAME: SAIL A/C DURGAPUR STEEL PLANT, ACCOUNT NO: 10894391546, IFSC: SBIN0000074."

17. The bank details of the beneficiary bears IFSC Code SBIN 0000074, whereas, from the communication of the bank we find that the IFSC Code of the beneficiary on the initial bank guarantee was mentioned as IFSC SBIN 0000346. Thus, not only was the address of the beneficiary incorrect and contrary to the tender document, the IFSC Code of the bank was also incorrect. In view of the mistake

in the IFSC Code (account details), invocation of the bank guarantee would not be possible. Clause 5 (b) provides as follows :-

> *"b. Tenderers shall submit EMD/Bid Security on GeM Portal as per GeM procedures & upload scanned copy of EMD/Bid Security & EMD/Bid Security Receipt with their Techno-commercial offer on GeM portal and submit hard copy of the same in sealed envelope directly to SAIL/DSP within 5 working days of Tender opening Date, failing which the bid may be treated as incomplete & may lead to rejection of the bid without making any reference to the bidder [GeM provision]."*

18. In this case, the physical copy contained the wrong address. Clause 5(c) provides as follows :-

> *"c. Tenderers are required to submit Physical copy of EMD/Bid Security in a sealed cover clearly super scribing GeM Bid Number, Earnest Money Deposit (EMD), due date of Submission, due date of opening and the Name & Address of the bidder.*
>
> *Address for submission of EMD:*
> *Md. Asif Khan*
> *AGM (MM-Purchase)*
> *Room No. 310, Purchase Department,*
> *Third Floor, Ispat Bhavan,*
> *Durgapur Steel Plant,*
> *Durgapur, West Bengal-713203, India."*

21. From the said document that was submitted, it was clear that the beneficiary's address had been incorrectly incorporated in the bank guarantee. Under such circumstances, the tender issuing authority reserved the absolute right and freedom to reject the bid. Exercise of such right can neither be questioned before a writ court nor can the same be set aside by way of judicial review. In view of the deviation from the bid document, the authority rightly rejected the technical bid. Even though an amendment was made later on, the authority was not bound to accept the same. Whether the error cropped up at the instance of the bank or at the instance of the appellants, was not available on record.

22. However, in the event the appellants are aggrieved by the alleged action of the bank, the appellants are at liberty to proceed against the bank in accordance with law.

23. We do not find any reason to interfere with the order impugned. The same does not suffer from perversity. His Lordship has applied the principles of law and rightly expressed His Lordship's inability to review the decision of the tendering authority in the matter of rejection of a technical bid on the ground that the bank guarantee was not in proper form.

24. In the matter of ***Maa Binda Express Carrier and Anr. vs Northeast Frontier railway and Ors.***

reported in ***AIR 2014 SC 390***, the Hon'ble Apex Court held as follows:-

> **"8.** The scope of judicial review in matters relating to award of contracts by the State and its instrumentalities is settled by a long line of decisions of this Court. While these decisions clearly recognise that power exercised by the Government and its instrumentalities in regard to allotment of contract is subject to judicial review at the instance of an aggrieved party, submission of a tender in response to a notice inviting such tenders is no more than making an offer which the State or its agencies are under no obligation to accept. The bidders participating in the tender process cannot, therefore, insist that their tenders should be accepted simply because a given tender is the highest or lowest depending upon whether the contract is for sale of public property or for execution of works on behalf of the Government. All that participating bidders are entitled to is a fair, equal and non-discriminatory treatment in the matter of evaluation of their tenders. It is also fairly well settled that award of a contract is essentially a commercial transaction which must be determined on the basis of consideration that are relevant to such commercial decision. This implies that terms subject to which tenders are invited are not open to the judicial scrutiny unless it is found that the same have been tailor-made to benefit any particular tenderer or class of tenderers. So also, the authority inviting tenders can enter into negotiations or grant relaxation for bona fide and cogent reasons provided such relaxation is permissible under the terms governing the tender process.
>
> **9.** Suffice it to say that in the matter of award of contracts the Government and its agencies have to act reasonably and fairly at all points of time. To that extent the tenderer has an enforceable right in the court which is competent to examine whether the aggrieved party has been treated unfairly or discriminated against to the detriment of public interest. (See *Meerut Development Authority* v. *Assn. of Management Studies* [(2009) 6 SCC 171 : (2009) 2 SCC (Civ) 803] and *Air India Ltd.* v. *Cochin International*

Airport Ltd. [(2000) 2 SCC 617 : (2000) 1 SCR 505])

10. The scope of judicial review in contractual matters was further examined by this Court in *Tata Cellular* v. *Union of India* [(1994) 6 SCC 651] , *Raunaq International Ltd. case* [*Raunaq International Ltd.* v. *I.V.R. Construction Ltd.*, (1999) 1 SCC 492] and in *Jagdish Mandal* v. *State of Orissa* [(2007) 14 SCC 517] besides several other decisions to which we need not refer.

11. In *Michigan Rubber (India) Ltd.* v. *State of Karnataka* [(2012) 8 SCC 216] the legal position on the subject was summed up after a comprehensive review and principles of law applicable to the process for judicial review identified in the following words: (SCC p. 229, paras 23-24)

"*23*. From the above decisions, the following principles emerge:

(*a*) the basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. These actions are amenable to the judicial review only to the extent that the State must act validly for a discernible reason and not whimsically for any ulterior purpose. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities;

(*b*) *fixation of a value of the tender is entirely within the purview of the executive and courts hardly have any role to play in this process except for striking down such action of the executive as is proved to be arbitrary or unreasonable*. If the Government acts in conformity with certain healthy standards and norms such as awarding of contracts by inviting tenders, in those circumstances, the interference by courts is very limited;

(*c*) in the matter of formulating conditions of a tender document and awarding a contract, greater latitude is required to be conceded to the

State authorities unless the action of the tendering authority is found to be malicious and a misuse of its statutory powers, interference by courts is not warranted;

(*d*) certain preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work; and

(*e*) *if the State or its instrumentalities act reasonably, fairly and in public interest in awarding contract, here again, interference by court is very restrictive since no person can claim a fundamental right to carry on business with the Government.*

20. Therefore, a court before interfering in tender or contractual matters, in exercise of power of judicial review, should pose to itself the following questions:

(*i*) *Whether the process adopted or decision made by the authority is mala fide or intended to favour someone; or whether the process adopted or decision made is so arbitrary and irrational that the court can say: 'the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached'? and*

(*ii*) *Whether the public interest is affected*?

If the answers to the above questions are in the negative, then there should be no interference under Article 226."

(emphasis supplied)

12. As pointed out in the earlier part of this order, the decision to cancel the tender process was in no way discriminatory or mala fide. On the contrary, if a contract had been awarded despite the deficiencies in the tender process serious questions touching the legality and propriety affecting the validity of the tender process would have arisen. Inasmuch as the

competent authority decided to cancel the tender process, it did not violate any fundamental right of the appellant nor could the action of the respondent be termed unreasonable so as to warrant any interference from this Court. The Division Bench of the High Court was, in that view, perfectly justified in setting aside the order [*Maa Binda Express Carrier* v. *Union of India*, WP (C) No. 4668 of 2011, order dated 4-2-2012 (Gau)] passed by the Single Judge and dismissing the writ petition."

25. In the matter of ***Balaji Ventures Pvt. Ltd. vs Maharashtra State Power Generation Company Ltd. & Anr.*** decided in ***Special Leave to Appeal (C) No(s). 1616 & 1673 /2022,*** the Hon'ble Apex Court held as follows:-

"**5.1** Now so far as the impugned Judgment and order passed by the High Court dismissing the writ petitions is concerned, what was challenged before the High Court was one of the tender conditions/clauses. The High Court has specifically observed and noted the justification for providing clause 1.12(V). The said clause was to be applied to all the tenderers/bidders. It cannot be said that such clause was a tailor made to suit a particular bidder. It was applicable to all. Owner should always have the freedom to provide the eligibility criteria and/or the terms and conditions of the bid unless it is found to be arbitrary, mala fide and/or tailor made. The bidder/tenderer cannot be permitted to challenge the bid condition/clause which might not suit him and/or convenient to him. As per the settled proposition of law as such it is an offer to the prospective bidder/tenderer to compete and submit the tender considering the terms and conditions mentioned in the tender document."

26. In the case of ***Silppi Constructions Contractors vs. Union of India, (2020) 16 SCC 489***, it is observed in para 20 as under:

> "20. The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the State instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity. With this approach in mind we shall deal with the present case."

27. In ***Jagdish Mandal v. State of Orissa and Ors. WITH Laxman Sharma Vs. State of Orissa and Ors.*** reported in ***(2007) 14 SCC 517*** it was held as hereunder: -

> "**22.** Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or

> contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:
>
> (i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;
>
> OR
>
> Whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";
>
> (ii) Whether public interest is affected.
>
> If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

28. Accordingly, the appeal and the connected application are dismissed.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)